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E & R AMENDMENTS TO LB 287

1                   1.     Strike the original sections and all amendments  
2     thereto and insert the following new sections:

3                   "Section 1.     Section 77-2702.07,     Revised     Statutes  
4     Supplement, 2002, is amended to read:

5                   77-2702.07.     (1)   Gross   receipts   shall mean the total  
6     amount of the sale or lease or rental price, as the case may be, of  
7     the retail sales of retailers valued in money whether received in  
8     money or otherwise, without any deduction on account of any of the  
9     following:

10                  (a) The cost of property sold. In accordance with rules  
11     and regulations adopted and promulgated by the Tax Commissioner, a  
12     deduction may be taken if the retailer has purchased property for  
13     some purpose other than resale, has reimbursed his or her vendor  
14     for tax which the vendor is required to pay to the state or has  
15     paid the use tax with respect to the property, and has resold the  
16     property prior to making any use of the property other than  
17     retention, demonstration, or display while holding it for sale in  
18     the regular course of business. If such a deduction is taken by  
19     the retailer, no refund or credit will be allowed to his or her  
20     vendor with respect to the sale of the property;

21                  (b) The cost of the materials used, labor or service  
22     costs, interest paid, losses, or any other expense;

23                  (c) The cost of transportation of the property;

24                  (d) The amount of any excise or property tax levied

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1 against the property except as otherwise provided in the Nebraska  
2 Revenue Act of 1967; or

3 (e) The amount charged for warranties, guarantees, or  
4 maintenance agreements.

5 (2) Gross receipts of every person engaged as a public  
6 utility specified in this subsection or as a community antenna  
7 television service operator or any person involved in connecting  
8 and installing services defined in subdivision (2)(a), (b), or (d)  
9 of this section shall mean:

10 (a) In the furnishing of telephone communication service,  
11 other than mobile telecommunications service as described in  
12 section 77-2706.02, the gross income received from furnishing local  
13 exchange telephone service and intrastate message toll telephone  
14 service. In the furnishing of mobile telecommunications service as  
15 described in section 77-2706.02, the gross income received from  
16 furnishing mobile telecommunications service that originates and  
17 terminates in the same state to a customer with a place of primary  
18 use in Nebraska. Gross receipts shall not mean (i) the gross  
19 income, including division of revenue, settlements, or carrier  
20 access charges received on or after January 1, 1984, from the sale  
21 of a telephone communication service to a communication service  
22 provider for purposes of furnishing telephone communication service  
23 or (ii) the gross income attributable to services rendered using a  
24 prepaid telephone calling arrangement. For purposes of this  
25 subdivision, a prepaid telephone calling arrangement shall mean the  
26 right to exclusively purchase telecommunications service that are  
27 paid for in advance that enables the origination of calls using an

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1 access number or authorization code, whether manually or  
2 electronically dialed;

3 (b) In the furnishing of telegraph service, the gross  
4 income received from the furnishing of intrastate telegraph  
5 services;

6 (c) In the furnishing of gas, electricity, sewer, and  
7 water service except water used for irrigation of agricultural  
8 lands and manufacturing purposes, the gross income received from  
9 the furnishing of such services upon billings or statements  
10 rendered to consumers for such utility services; and

11 (d) In the furnishing of community antenna television  
12 service, the gross income received from the furnishing of such  
13 community antenna television service as regulated under sections  
14 18-2201 to 18-2205 or 23-383 to 23-388.

15 Gross receipts shall also mean gross income received from  
16 the provision, installation, construction, servicing, or removal of  
17 property used in conjunction with the furnishing, installing, or  
18 connecting of any public utility services specified in subdivision  
19 (2)(a) or (b) of this section or community antenna television  
20 service specified in subdivision (2)(d) of this section. Gross  
21 receipts shall not mean gross income received from telephone  
22 directory advertising.

23 (3) Gross receipts of every person engaged in selling,  
24 leasing, or otherwise providing intellectual or entertainment  
25 property shall mean:

26 (a) In the furnishing of computer software, the gross  
27 income received, including the charges for coding, punching, or

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1 otherwise producing computer software and the charges for the  
2 tapes, disks, punched cards, or other properties furnished by the  
3 seller; and

4 (b) In the furnishing of videotapes, movie film,  
5 satellite programming, satellite programming service, and satellite  
6 television signal descrambling or decoding devices, the gross  
7 income received from the license, franchise, or other method  
8 establishing the charge except the gross income received from  
9 videotape and film rentals, satellite programming, and satellite  
10 programming service when the sales tax or the admission tax is  
11 charged under the Nebraska Revenue Act of 1967 and except as  
12 provided in section 77-2704.39.

13 (4) ~~Commencing October 1, 2002, gross~~ Gross receipts for  
14 providing a service shall mean:

15 (a) The gross income received for building cleaning and  
16 maintenance, pest control, and security;

17 (b) The gross income received for motor vehicle washing,  
18 waxing, towing, and painting;

19 (c) The gross income received for computer software  
20 training; and

21 (d) The gross income received for installing and applying  
22 and repairing tangible personal property, excluding motor vehicles,  
23 if the sale of the property is subject to tax.

24 (5) Gross receipts shall not include any of the  
25 following:

26 (a) Cash discounts allowed and taken on sales;

27 (b) The amount of any rebate granted by a motor vehicle

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1 or motorboat manufacturer or dealer at the time of sale of the  
2 motor vehicle or motorboat, which rebate functions as a discount  
3 from the sales price of the motor vehicle or motorboat;

4 (c) Sales price of property or services returned or  
5 rejected by customers when the full sales price is refunded either  
6 in cash or credit;

7 (d) The amount charged for finance charges, carrying  
8 charges, service charges, or interest from credit extended on sales  
9 of property or services under contracts providing for deferred  
10 payments of the purchase price if such charges are not used as a  
11 means of avoiding imposition of the tax upon the actual sales price  
12 of the property or services;

13 (e) The value of property taken by a seller in trade as  
14 all or a part of the consideration for a sale of property of any  
15 kind or nature;

16 (f) The value of a motor vehicle or motorboat taken by  
17 any person in trade as all or a part of the consideration for a  
18 sale of another motor vehicle or motorboat; or

19 (g) Receipts from conditional sale contracts, installment  
20 sale contracts, rentals, and leases executed in writing prior to  
21 June 1, 1967, and with delivery of the property prior to June 1,  
22 1967, if such conditional sale contracts, installment sale  
23 contracts, rentals, or leases are for a fixed price and are not  
24 subject to negotiation or alteration. ~~+~~ ~~or~~

25 ~~(h) Except as provided in subsection (2) of this section,~~  
26 ~~until October 1, 2002, the amount charged for labor or services~~  
27 ~~rendered in installing or applying the property sold if such amount~~

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1 ~~is separately stated and such separate statement is not used as a~~  
2 ~~means of avoiding imposition of the tax upon the actual sales price~~  
3 ~~of the property.~~

4           Sec. 2. This act becomes operative on October 1, 2003.

5           Sec. 3. Original section 77-2702.07, Revised Statutes  
6 Supplement, 2002, is repealed."

7           2. On page 1, strike lines 2 through 5 and insert  
8 "77-2702.07, Revised Statutes Supplement, 2002; to provide for  
9 sales tax on repair services as prescribed; to eliminate obsolete  
10 provisions; to provide an operative date; and to repeal the  
11 original section."